

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Mary Herman & Jason Bodensteiner,
Petitioner-Appellants.

v.

Black Hawk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-07-0823

Parcel No. 8914-02-302-002

On October 29, 2009, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellants, Mary Herman and Jason Bodensteiner, requested this appeal be considered without hearing and submitted evidence in support of their petition. They were self-represented. The Black Hawk County Board of Review designated Black Hawk County Attorney David J. Mason as its legal representative. The Appeal Board now having reviewed the record, and being fully advised, finds:

Findings of Fact

Mary Herman and Jason Bodensteiner, owners of property located at 2916 Minnetonka Drive, Cedar Falls, Iowa, appeal from the Black Hawk County Board of Review decision reassessing their property.

The real estate was classified as residential for the January 1, 2009, assessment and valued at \$303,410; representing \$54,470 in land value and \$248,940 in improvement value. The appellants protested to the Board of Review on the grounds that the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(b) and there had been a downward change in value since the last assessment under sections 441.37(1) and 441.35. In response to the protest, the Board of

Review notified the appellants that the January 1, 2009, assessment would not be changed finding there was “[i]nsufficient evidence presented to prove assessment excessive.”

The appellants then filed an appeal with this Board on the grounds that the property is assessed for more than authorized by law, that there is an error in the assessment, and there had been a downward change in value since the last assessment. Since the downward trend ground is basically an appeal regarding the subject property’s market value, this Board will only consider the ground that the property is assessed for more than authorized by law. Since the ground of error was not presented to the Board of Review, it cannot be considered for the first time on appeal. The amount of relief sought in this appeal by the appellants is \$105,633. They value the property at \$197,777.

The appellants submitted evidence of a “settlement statement” dated July 2008, signed by them and the Miriam Herscovici 1977 Trust. The appellants also submitted a letter dated June 28, 2009, stating it is their position that the purchase price of \$197,777 is market value.

The Black Hawk County Board of Review did not submit additional information to this Board. The only evidence from the Board of Review is the certification of its records.

The evidence submitted to this Board is very limited. However, it does appear that the sale of the subject property is an abnormal sale. The fact that the sale is to or from a trust would designate the purchase as an abnormal sales transaction. Because we are unable to make any adjustments to the sales price of the property if indeed it is abnormal, we find the evidence is insufficient to prove that the Herman/Bodensteiner January 1, 2009, assessment is in excess of fair market value

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal

Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. Iowa Code § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

The appellants assert the 2008 purchase price should be the 2009 assessed value. In *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996), the Court determined "[it] is clear from the wording of Iowa Code section 441.21(1)(b) that the sales price of the subject property in a normal sales transaction, just as the sale price of comparable property, is to be considered in arriving at market value but does not conclusively establish that value." Since the appellants' sale was considered an abnormal transaction, we do not consider it to be indicative of the property's fair market value and do not rely on this evidence to show over-assessment.

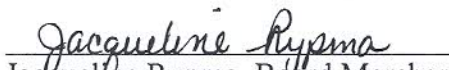
We, therefore, affirm the appellants' property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$303,410; representing \$54,470 in land value and \$248,940 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Black Hawk County Board of Review is affirmed.

Dated this 14 day of December, 2009.


Richard Stradley, Presiding Officer


Karen Oberman, Board Chair


Jacqueline Rypma, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12-14, 2009</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	